

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tiffany Dempsey	Team: Squad #14	CCRB Case #: 201505360	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 03/29/2015 9:47 PM	Location of Incident: [REDACTED]	Precinct: 83	18 Mo. SOL 9/29/2016	EO SOL 9/29/2016	
Date/Time CV Reported Mon, 06/29/2015 2:09 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 06/29/2015 2:09 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Numael Amador	09643	953634	PBBN
2. SGT Alexi Serpani	03257	942535	PBBN
3. POM Juan Morales	31941	955219	PBBN
4. An officer			PBBN

Officer(s)	Allegation	Investigator Recommendation
A . POM Numael Amador	Abuse of Authority: PO Numael Amador stopped an individual.	A . § 87(2)(g) [REDACTED]
B . POM Juan Morales	Abuse of Authority: PO Juan Morales stopped an individual.	B . § 87(2)(g) [REDACTED]
C . POM Numael Amador	Abuse of Authority: PO Numael Amador frisked an individual.	C . § 87(2)(g) [REDACTED]
D . POM Juan Morales	Abuse of Authority: PO Juan Morales frisked an individual.	D . § 87(2)(g) [REDACTED]
E . POM Numael Amador	Abuse of Authority: PO Numael Amador interfered with Daniel Teitell's ability to record a police incident.	E . § 87(2)(g) [REDACTED]
F . POM Numael Amador	Abuse of Authority: PO Numael Amador threatened to arrest Daniel Teitell.	F . § 87(2)(g) [REDACTED]
G . POM Numael Amador	Discourtesy: PO Numael Amador spoke discourteously to Daniel Teitell.	G . § 87(2)(g) [REDACTED]
H . POM Juan Morales	Abuse of Authority: PO Juan Morales frisked § 87(2)(b) [REDACTED].	H . § 87(2)(g) [REDACTED]
I . An officer	Abuse of Authority: An officer searched § 87(2)(b) [REDACTED].	I . § 87(2)(g) [REDACTED]
J . POM Juan Morales	Abuse of Authority: PO Juan Morales searched § 87(2)(b) [REDACTED].	J . § 87(2)(g) [REDACTED]
K . SGT Alexi Serpani	Abuse of Authority: Sgt. Alexi Serpani refused to provide his name and shield number to § 87(2)(b) [REDACTED].	K . § 87(2)(g) [REDACTED]
L . POM Numael Amador	Abuse of Authority: PO Numael Amador refused to provide his name and shield number to § 87(2)(b) [REDACTED].	L . § 87(2)(g) [REDACTED]
M . POM Juan Morales	Abuse of Authority: PO Juan Morales refused to provide his name and shield number to § 87(2)(b) [REDACTED].	M . § 87(2)(g) [REDACTED]
N . POM Numael Amador	Abuse of Authority: PO Numael Amador issued summonses to § 87(2)(b) [REDACTED].	N . § 87(2)(g) [REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		
Q . POM Numaël Amador	Other: There is evidence suggesting PO Numaël Amador provided a false official statement in violation of Patrol Guide Procedure 203-08.	Q . § 87(2)(g)

### Case Summary

On March 29, 2015, at approximately 9:47 p.m., PO Numael Amador and PO Juan Morales of Patrol Borough Brooklyn North allegedly stopped and frisked an individual inside Maria Hernandez Park, near the corner of Knickerbocker Avenue and Suydam Street (**Allegations A, B, C and D**). PO Amador approached § 87(2)(b) a bystander who was filming the incident in the park, and interfered with his ability to record the police incident (**Allegation E**). PO Amador allegedly threatened to arrest § 87(2)(b) and allegedly called him a “smartass,” (**Allegations F and G**). PO Morales then frisked and searched § 87(2)(b) and an officer also searched § 87(2)(b) (**Allegations H, I, and J**). Sgt. Alexis Serpani of Patrol Borough Brooklyn North responded to the incident, and he, along with PO Amador and PO Morales, allegedly refused to provide their names and shield numbers to § 87(2)(b) (**Allegations K, L, and M**). PO Amador issued § 87(2)(b) two summonses for violating NYC Department of Parks and Recreation’s Rules and Regulations (**Allegation N**). PO Amador and PO Morales failed to prepare memo book entries for the incident involving an individual (**Allegations O and P**). There is evidence to suggest PO Amador provided a false official statement to the CCRB regarding this incident (**Allegation Q**). The unidentified individual was neither summonsed nor arrested in regards to the incidents (Board Review 5, 6, 9, 10, 11, 12, 13, 14, and 15).

### Mediation, Civil and Criminal Histories

- On June 4, 2015, § 87(2)(b) filed a Notice of Claim with the City of New York, claiming the NYPD subjected him to false arrest, unlawful search and seizure, assault and battery, malicious and retaliatory prosecution, racial profiling denial of proper medical care, negligence, and violations of his civil rights; he is seeking monetary restitution. On July 15, 2015, § 87(2)(b) filed a second Notice of Claim with The U.S. District Court of the Eastern District of New York, claiming the NYPD subjected him to false arrest, false imprisonment, and malicious prosecution, and he is seeking compensatory and punitive damages (Board Review 4). As of August 17, 2015, a 50H hearing had not been scheduled (See IAs).
- As a result of the ongoing claims, this case was ineligible for mediation. According to the summons depositions provided by the Criminal Court of the City of New York, on of June 4, 2015, all charges against § 87(2)(b) were dismissed (Board Review 8).
- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) (Board Review 3).
- PO Amador has been a member of service for two years, and there is only one previous complaint (#201311334) filed against him for a stop and frisk which was closed as Complaint Withdrawn.
- PO Morales has been a member of service for two years and there is one previous allegation against him in case #201501203 for physical force which was administratively closed. PO Morales is also currently a subject in two open CCRB cases. In one, he is the subject of a physical force allegation (#201501529). In the other, he is the subject of physical force, frisk, and search (#201505545).
- Sgt. Alexi Serpani has been a member of service for nine years, and this is the first CCRB complaint filed against him.

### Potential Issues

The individual who was allegedly a victim of the initial stop by the officers was unable to be identified via police documents, civilian statements, and/or officer testimony; therefore, the individual was unable to provide a statement in regards to these incidents (Board Review 7, 12, 13, and 14).

Images of the signs located at the entrances of Maria Hernandez Park were obtained via Google Street View from September 2014 (Board Review 16). Additional images of these signs were captured in photos taken by the CCRB field team in July 2015. It is clear from these images that the signs were changed between these dates (Board Review 2). Personnel at NYC Parks and Recreation Department could not confirm the rules listed on the sign prior to the change or the date on which the sign was changed; however, they stated that the rules of the park have not changed within the last year, including the closing time of the park. They also stated that the sign was most likely changed to incorporate other languages, update the commissioners' name, or to fix damages, and was possibly changed in December 2014 (See IAs).

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

Video footage confirms PO Amador and PO Morales interacted with an individual prior to interacting with § 87(2)(b) therefore, **Allegations A, B, C and D** are pleaded against both PO Amador and PO Morales. § 87(2)(b) accurately described each officer and distinguished that PO Amador was the operator of the police vehicle and PO Morales was the passenger. PO Amador and PO Morales confirmed interacting with § 87(2)(b) and PO Amador confirmed he was the operator and PO Morales was the passenger. Also, PO Amador's and PO Morales' pedigree information matches that of § 87(2)(b)'s physical descriptions of each officer. As § 87(2)(b) was able to identify and distinguish the officers, **Allegations E, F, G, L, and N** are pleaded against PO Amador, and **Allegations H, J, and M** are pleaded against PO Morales. § 87(2)(b) could not recall for certain which officer, PO Amador or PO Morales, searched his jacket, and neither PO Amador nor PO Morales admitted to searching § 87(2)(b) therefore, the subject officer remains unidentified, and **Allegation I** is pleaded against "An officer." Sgt. Serpani confirmed speaking with § 87(2)(b) and being asked his name; therefore, **Allegation K** is pleaded against Sgt. Serpani.

#### **Recommendations**

**Allegation A – Abuse of Authority: PO Numael Amador stopped an individual.**

**Allegation B – Abuse of Authority: PO Juan Morales stopped an individual.**

**Allegation C – Abuse of Authority: PO Numael Amador frisked an individual.**

**Allegation D – Abuse of Authority: PO Juan Morales frisked an individual.**

§ 87(2)(b) alleged that PO Amador and PO Morales approached an unidentified man in the park and frisked his jacket. § 87(2)(b) could not only provide limited details about the extent of the officers' interaction with this man. Neither § 87(2)(b) PO Amador nor PO Morales knew the identity of this individual. This part of the incident was only partially captured on video footage and the footage was not sufficient to identify the man. The officers' interaction with this man occurred prior to the officers' interaction with § 87(2)(b) (Board Review 12, 13, and 14). No police documents, including memo book entries or stop, question and frisk reports, were completed for the incident. The video footage does not capture the initial stop or the alleged frisk of the individual (Board Review 5, 7, 9, 10, and 11). As such, the identity of the alleged victim remains unknown.

§ 87(2)(g)

**Allegation E – Abuse of Authority: PO Numael Amador interfered with § 87(2)(b)'s ability to record a police incident.**

**Allegation N – Abuse of Authority: PO Numael Amador issued summonses to § 87(2)(b)**

It is undisputed that after PO Amador and PO Morales observed § 87(2)(b) standing in Maria

Hernandez Park watching the officers interact with the unidentified individual. PO Amador approached § 87(2)(b) handcuffed him subsequent to § 87(2)(b) refusing to provide identification, and issued § 87(2)(b) two summonses for violating NYC Department of Park and Recreation's Rules and Regulations. It is undisputed that this occurred prior to 10 p.m. The unidentified individual was neither summonsed nor arrested (Board Review 5, 6, 11, 12, 13, 14, and 15).

§ 87(2)(b) alleged that although the officers had already observed him, once PO Amador and PO Morales noticed that § 87(2)(b) had begun video recording their interaction with his cell phone, PO Amador approached § 87(2)(b) asked for his identification, and simultaneously removed § 87(2)(b)'s cell phone from his hand and handcuffed him after § 87(2)(b) questioned whether he was being detained or free to leave (Board Review 12).

PO Amador, PO Morales, and Sgt. Serpani consistently testified that they were familiar with Maria Hernandez Park, the park signs, and the rules and regulations of the park prior to the incident because they often complete patrol assignments within the park (Board Review 13, 14, and 15). On March 29, 2015, PO Amador and PO Morales observed a sign at the park entrance located at Knickerbocker Avenue and Suydam Street which stated the closing time of the park is dusk. PO Morales added that within the last eighteen months, the closing time of the park has not changed (Board 13 and 14).

PO Amador testified that he approached § 87(2)(b) for the sole reason of issuing him a summons for being in the park after dusk, and handcuffed him because § 87(2)(b) refused to provide identification to be summonsed and he intended to transport § 87(2)(b) to the stationhouse. PO Amador confirmed observing § 87(2)(b) with a cell phone in his hand prior to approaching § 87(2)(b) however, PO Amador did not know what § 87(2)(b) was doing with his cell phone, and did not recall what happened to the cell phone once § 87(2)(b) was handcuffed. PO Amador testified that he did not remove the cell phone from § 87(2)(b) and was never made aware that § 87(2)(b) had been video recording the incident, even after having been shown video footage of the incident. Sgt. Serpani and PO Amador later instructed PO Amador to issue § 87(2)(b) a summons, but did not specify for which violation(s). PO Amador testified that he, PO Amador, is "allowed to do whatever [he] wants to do with these situations," and that he used discretion to issue § 87(2)(b) two summonses because § 87(2)(b) violated two separate offenses, being in the park after dusk and failing to comply with a park sign which stated the park closed at dusk (Board Review 6 and 13).

PO Morales testified that he was busy interacting with the unidentified individual and did not see § 87(2)(b) with a cell phone or PO Amador removing a cell phone from him (Board Review 14). Sgt. Serpani, who also confirmed the park closes at dusk, testified that upon arriving at the incident location, he was informed by either PO Amador or PO Morales that § 87(2)(b) was stopped for being in the park after dusk in violation of the park sign, and was handcuffed for video recording the officers, in addition to being in the park after dusk. Sgt. Serpani informed the officers to release § 87(2)(b) with a summons for being in the park after dusk since that was the only violation they had informed him § 87(2)(b) committed. Sgt. Serpani believed § 87(2)(b) was only in violation of one offense, being in the park after dusk, and therefore, should have been issued only one summons (Board Review 15).

According to a photograph of the park sign located outside of Maria Hernandez Park at the Knickerbocker Avenue and Suydam Street entrance, taken on July 1, 2015, Maria Hernandez Park closes at 10 p.m (Board Review 2). In July 2015, the undersigned spoke to personnel from NYC's Department of Parks and Recreation law department and operations unit, and confirmed that the closing time of the park has not changed in at least one year, regardless of whether the sign was updated or renewed (See IAs).

Video footage of the incident shows that after observing § 87(2)(b) who was standing approximately seven to thirteen feet from the officers, PO Amador walked toward § 87(2)(b) and stood in front of

him, obstructing the video's view of PO Morales and an individual. Within ten seconds of approaching § 87(2)(b) PO Amador then reached toward § 87(2)(b)'s cell phone, causing the video footage to shake and blacken, further inhibiting § 87(2)(b)'s ability to video record the incident (Board Review 5 and 11).

§ 87(2)(b)'s summonses issued by PO Amador for being inside of the park after closing and failing to comply with rules listed on a park sign were dismissed in the Criminal Court of the City of New York on June 4, 2015 (Board Review 8).

Due to the photograph of the park sign which states Maria Hernandez Park closes at 10 p.m., and statements from NYC's Department of Parks and Recreation personnel confirming that the closing time of the park had not changed within the last year, the investigation credits that Maria Hernandez Park in Brooklyn, closed at 10 p.m., not dusk, on the date of incident.

An individual may be summonsed for an offense when an officer has reasonable cause to believe that such person committed an offense in their presence N.Y.C.P.L 150.20 (1); 140.10 (1) (a) (Board Review 1). According to the NYC Department of Parks and Recreation's Rules and Regulations, a person is in violation of Section 1-03(3a), when entering or remaining in a park when such park is closed to the public, and in violation of Section 1-03(c2) when failing to comply with or obey regulations displayed on any park sign. Patrol Guide Procedure 208-03 states that it is lawful for onlookers to videotape police incidents (Board Review 1).

The officers professed to being familiar with Maria Hernandez Park and its rules and regulations, a sign was posted outside of the entrance of the park stating that the closing time is 10 p.m., and PO Amador and PO Morales confirmed that they observed the sign prior to entering the park. However, it is clear the park was not closed at the time of the incident and it was not reasonable for the officers to believe it was. § 87(2)(g)

§ 87(2)(b) was not in violation of the above mentioned park rules/regulations or any other violation, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) Sgt. Serpani testified that the officers informed him that § 87(2)(b) was handcuffed because he was video recording them. § 87(2)(b) recalled other civilians jogging in the park who were not stopped, and it is undisputed that the unidentified man with whom the officers interacted was not summonsed, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation F – Abuse of Authority: PO Numael Amador threatened to arrest § 87(2)(b)**

**Allegation G – Discourtesy: PO Numael Amador spoke discourteously to § 87(2)(b)**

It is undisputed that PO Amador placed § 87(2)(b) in handcuffs and conversed with him (Board Review 12 and 13). According to § 87(2)(b) once in handcuffs, PO Amador told § 87(2)(b) that he was going to teach him a lesson, and repeatedly stated that § 87(2)(b) was going to spend at least one night in jail. PO Amador also allegedly told § 87(2)(b) that he was going to show § 87(2)(b) who the boss was and called him a “smartass,” because § 87(2)(b) referenced his constitutional rights during the incident.

PO Amador did not recall telling § 87(2)(b) that he would teach § 87(2)(b) a lesson or have him spend a night in jail, calling § 87(2)(b) a “smartass” (Board Review 13). PO Morales said PO Amador did not tell § 87(2)(b) he was going to teach him a lesson or have him spend one night in jail, and did not call § 87(2)(b) a “smartass” (Board Review 14).

Patrol Guide Procedure 203-09 requires officers to be courteous and respectful in dealing with the public (Board Review 18).

§ 87(2)(g)

It is notable that PO Amador did not actually deny these allegations, but merely said he did not recall saying these things.

§ 87(2)(g)

**Allegation K – Abuse of Authority: Sgt. Alexi Serpani refused to provide his name and shield number to § 87(2)(b)**

**Allegation L – Abuse of Authority: PO Numael Amador refused to provide his name and shield number to § 87(2)(b)**

**Allegation M – Abuse of Authority: PO Juan Morales refused to provide his name and shield number to § 87(2)(b)**

According to § 87(2)(b) he asked Sgt. Serpani for his name and shield number, and Sgt. Serpani allegedly provided § 87(2)(b) with a false name and did not provide his shield number. After § 87(2)(b) received two summonses, PO Amador allegedly refused to give § 87(2)(b) his name and shield number when requested to do so, and PO Morales allegedly ignored § 87(2)(b)'s request for his name and shield number (Board Review 12).

PO Amador did not recall being asked for his name or shield number, and PO Amador did not hear § 87(2)(b) ask PO Morales for his name or shield number (Board Review 13). PO Morales did not recall § 87(2)(b) asking either himself or PO Amador for their names and shield numbers (Board Review 14). Sgt. Serpani was not present when § 87(2)(b) allegedly asked PO Amador and PO Morales for their names and shield numbers (Board Review 12). Sgt. Serpani confirmed § 87(2)(b) asked for him for his name, but he did not recall being asked for his shield number. Sgt. Serpani said he pointed to his name plate which was visible on his uniform, and verbally stated his last name, “Serpani,” to § 87(2)(b) (Board Review 15). Due to the distance PO Amador and PO Morales were standing from Sgt. Serpani and § 87(2)(b) neither PO Amador nor PO Morales heard Sgt. Serpani and § 87(2)(b) converse (Board Review 13 and 14).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation H – Abuse of Authority: PO Juan Morales frisked** § 87(2)(b)

§ 87(2)(b) testified during his CCRB interview that after being handcuffed and questioned by the officers, PO Morales patted down his body, including his jacket and pants pockets, prior to Sgt. Serpani's arrival (Board Review 12).

PO Morales and PO Amador did not recall whether PO Morales patted down § 87(2)(b) however, PO Morales stated that typically as procedure, civilian are frisked for weapons any time they are placed in handcuffs. PO Morales confirmed that § 87(2)(b) was handcuffed during the incident (Board Review 13 and 14). § 87(2)(g)

§ 87(2)(b) However, PO Morales testified that he did not recall whether the officers wanted to transport § 87(2)(b) to the stationhouse, nor whether the officers even conversed about doing so. PO Morales did not recall § 87(2)(b) being placed in a vehicle, nor whether § 87(2)(b) was considered under arrest at any point during the incident. Nothing on § 87(2)(b)'s person or about his appearance concerned PO Morales, and PO Morales did not recall suspecting § 87(2)(b) of being in possession of any contraband (Board Review 14).

§ 87(2)(g)

Patrol Guide Procedure 212-11 states that an officer may only frisk an individual who he reasonably suspects has committed, is committing, or is about to commit a felony or a Penal Law misdemeanor, if he also reasonably suspects that officers or others are in danger of physical injury (Board Review 1).

§ 87(2)(g)

§ 87(2)(g)



§ 87(2)(g)

**Allegation I – Abuse of Authority: An officer searched § 87(2)(b)**

§ 87(2)(b) alleged that either PO Amador or PO Morales searched him by unzipping his jacket and sticking his hands into the jacket’s inner breast pockets. He was uncertain which officer did this.

§ 87(2)(g)

**Allegation J – Abuse of Authority: PO Juan Morales searched § 87(2)(b)**

According to § 87(2)(b) after he was frisked, PO Morales removed his wool hat from his head, turned it inside out, shook it, and placed it into § 87(2)(b)’s hoodie pocket, while speaking to him about drugs (Board Review 12).

While PO Morales acknowledged that he did not recall if he frisked § 87(2)(b) he outright denied searching him. PO Morales denied removing a wool hat from § 87(2)(b)’s head, and did not recalling any officer searching § 87(2)(b) or speaking to him about drugs (Board Review 14). PO Amador did not recall § 87(2)(b) wearing a wool hat, or being searched (Board Review 13).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

**Allegation Q – Other: There is evidence suggesting PO Numael Amador provided a false official statement in violation of Patrol Guide Procedure 203-08.**

The CCRB recommends that the NYPD conduct further investigation, as there is evidence to suggest that PO Amador provided a false official statement. The evidence is as follows.

The investigation determined, based upon statements from § 87(2)(b) and Sgt. Serpani, in addition to video evidence, that PO Amador was aware § 87(2)(b) had video recorded the incident and removed § 87(2)(b)’s cell phone from his hand (Board Review 5, 11, 12, and 15).

During PO Amador’s July 13, 2015 interview at the CCRB, PO Amador confirmed observing a cell phone in § 87(2)(b)’s hand, but indicated that he did not know what § 87(2)(b) was doing with his cell phone. During PO Amador’s CCRB interview, Inv. Dempsey asked PO Amador about § 87(2)(b)’s cell phone, and the following exchange occurred (Board Review 13):

[18:16] **Inv. Dempsey:** “Once § 87(2)(b) was placed in handcuffs, what happened to

that phone he was holding?”  
**PO Amador:** “I don’t remember.”  
**Inv. Dempsey:** “Was it taken away from him?”  
**PO Amador:** “I didn’t take his phone. No, I did not.”

However, video footage shows PO Amador’s hands reaching toward § 87(2)(b)’s cell phone while § 87(2)(b) was video recording the officers (Board Review 5 and 6). Even after viewing this footage, PO Amador still stated that he did not know what he was reaching for and that the video footage did not change his recollection as to whether he removed a recording device from his hand (Board Review 13).

During PO Amador’s CCRB interview, PO Amador was questioned about whether he was aware that § 87(2)(b) was recording the officers, and the following exchange occurred:

[21:27] **Inv. Dempsey:** “At all were you made aware that § 87(2)(b) had been video recording your previous incident with an individual?”  
**PO Amador:** “Do I know if he was recording? Na, I don’t know.”

PO Amador indicated that he handcuffed § 87(2)(b) solely in preparation to take him back to the stationhouse since § 87(2)(b) failed to give PO Amador identification (Board Review 13). However, Sgt. Serpani testified that once he arrived at the incident location, an officer, either PO Amador or PO Morales, informed him that § 87(2)(b) was stopped for being in the park after dusk, had been “filming” the officers, and was handcuffed for filming the officers in addition to being in the park (Board Review 15). PO Morales, who had been interacting with the unidentified civilian when § 87(2)(b) was first stopped, did not recall whether § 87(2)(b) had been recording the incident and did not see whether PO Amador removed a cell phone from him (Board Review 14). § 87(2)(g)

According to Patrol Guide section 203-08, the intentional making of a false official statement is prohibited and will be subject to disciplinary action (Board Review 1). The statement must be proven to have been made, material, and intentionally false. *Dep’t of Correction v. Centeno*, OATH Index No. 2031/04 (2005) (Board Review 1).

§ 87(2)(g)

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Squad: 14

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date